

REPORT - PLANNING COMMISSION MEETING
January 9, 2003

Project Name and Number: Bayside Mezzanine (PLN2003-00118)

Applicant: Burke Nicholson c/o Bayside Interiors Inc.

Proposal: Finding for FAR increase to 38.1% to allow the construction of a 1,128 square foot mezzanine.

Recommended Action: Approve, based on findings and subject to conditions.

Location: 3220 Darby Common, in the Irvington Planning Area.

Assessor Parcel Number(s): 525-0325-049-00

Area: Lot Size – 31,931 square feet, Existing Building Size – 10,987 square feet.

Owner: Rivnick Limited Partnership

Agent of Applicant: Burke Nicholson c/o Bayside Interiors Inc.

Consultant(s): James Bostick, Bay Area Shelving

Environmental Review: This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301, Existing Facilities.

Existing General Plan: Light Industrial

Existing Zoning: I-L, Light Industrial

Existing Land Use: Industrial

Public Hearing Notice: Public hearing notification is applicable. A total of 19 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Osgood Road, Osgood Court, and Darby Common. The notices to owners and occupants were mailed on December 30, 2002. A Public Hearing Notice was delivered to The Argus on December 18, 2002 to be published by December 30, 2002.

Executive Summary: The applicant is requesting approval of a Finding for a Floor Area Ratio increase from 0.344 to 0.381 for the construction of a mezzanine of 1,128 square feet within the existing 10,987 square foot facility. The maximum floor area ratio (FAR) allowed in the I-L, Light Industrial zoning district is 0.35. The applicant's request represents an increase of 8.9 percent over the allowed FAR. Requests for increases in FAR over 5 percent and up to 15 percent maybe permitted based on findings with approval from the Planning Commission.

Background and Previous Actions: The building permit for the existing 10,987 square foot facility was issued in 2002, with a FAR of 34.4%. Currently, Bayside Interiors employs a total of 10 people out of the facility and have advised staff that this FAR increase will not result in any new employees, as the mezzanine will be used exclusively as additional warehouse space.

Project Description: The applicant is proposing interior tenant improvements, which includes the construction of a 1,182 square foot mezzanine, within the existing warehouse portion of the facility. The improvements will result in an increase of the FAR from 34.4% to 38.1%. The proposed increase represents an 8.9% increase over the permitted FAR of 35%. The mezzanine would not add any new employees to the facility but would allow Bayside Interiors to store material within the building, which is currently stored in the rear of the site. No modifications to the exterior of the building are proposed.

The existing building and proposed use of the building is described as 55% office and 45% warehouse. The following calculations summarize the proposed increase in Floor Area Ratio:

Lot Area:	31,931 square feet
Existing Gross Building Area:	10,987 square feet
Proposed Gross Building Area:	12,169 square feet
Allowable FAR:	0.35 or 11,175 square feet
Existing FAR:	0.344
Proposed FAR:	0.381
Proposed percentage increase over threshold:	8.9%

Project Analysis:

General Plan Conformance: The existing General Plan land use designation for the project site is Light Industrial. The proposed project is consistent with the existing General Plan land use designation for the project site because the use and expansion thereof is allowed within this General Plan Designation. The following General Plan Goals, Objectives and Policies are applicable to the proposed project: **Land use Policy 3.6**

The policy sets forth Floor Area Ratios for industrial districts, and allows increases in the established FAR subject to the City's discretion based on one or more of the following criteria:

- Extraordinary benefits to the City.
- Unique circumstances of the project, which would reduce its impacts in comparison to other projects.
- Unique building requirements of a particular industrial use.
- Transfer of development potential between parcels of land in the vicinity of the project.

Zoning Regulations: The site is zoned I-L, Light Industrial. The existing building conforms to all setback and development standards for the I-L District. The requested Finding as indicated above is for an 8.9% increase over the permitted FAR of 0.35 (35%) resulting in an FAR of 0.381.

Criteria for Increases: As provided in Section 8-22140.5 of the Zoning Ordinance, an increase in the FAR may be granted at the City's discretion if a project meets the following criteria:

- 1) An increase in the FAR will not be detrimental to the area streets, sewer lines and/or other public services or to the lighting, air quality or privacy of any other properties in the vicinity of the structure.
- 2) There will be provisions in place guaranteeing the increased FAR will not be used to create a more intensive use than the uses specified by the approved finding.
- 3) In addition, one or more of the following findings shall be considered, if appropriate:
 - a. The proposed project would provide extraordinary benefits to the City;
 - b. The increased FAR would allow the project to be designed in such a manner which would mitigate its impacts on surrounding property more effectively than the FAR specified under the district regulations;
 - c. In order to accommodate a use, unique building requirements have been imposed (e.g., separate structures for air quality) which require an increase in the FAR over the FAR specified under the district regulations; and/or
 - d. Additional development potential has been transferred within a project from one parcel to another in the same project. And, adequate guarantees such as deed restrictions approved by the City Attorney are in place to insure the overall project FAR will not be exceeded.

The first criteria is met because adequate public facilities serve the site. An increase in these services is not necessary to accommodate the proposed increase in FAR.

The second criteria is the requirement to guarantee that the increase FAR will not be used to create a more intensive use than the uses specified by the approved finding. Condition A-3 requires the applicant to provide written guarantee in the

form of a deed restriction for recordation by the County Recorder, subject to review and approval by the City Attorney stating:

The increased FAR on the subject property shall not be used to create a more intensive use than the use specified by the approved Finding. The document shall address the restrictions on future development potential of the subject property. The recorder guarantee shall contain requirements for a review by the City of Fremont Assistant City Manager for all future site improvements. At such time as evidence is presented to the Assistant City Manager that there is an increase or intensification of use, the Assistant City Manager may impose corrective measures or other remedies to reduce the use and bring about compliance pursuant to the Fremont Municipal Code.

Finally, the third criteria is fulfilled because the increase in FAR from 0.34 to 0.381 for the mezzanine can be completed within the existing building with no exterior modifications required. The expansion of the existing use allows for the project to be expanded in a manner that will mitigate its impact on the surrounding properties. The proposed mezzanine space will be used to store/warehouse materials that are currently stored in the rear yard of the subject property, therefore, allowing the owner to improve the aesthetics of the site.

Parking: Currently the facility has 34 parking spaces. The existing building is 10,987 square feet, being comprised of 6,959 square feet of office space and 4,028 square feet of warehouse area. The new mezzanine space being 1,182 square feet in size will be used as additional warehouse space. As a result of the combination of the office/warehouse uses currently operating within the facility, staff has determined that there is sufficient on-site parking to meet the current land use needs. It should also be noted that, according to the applicant there are currently 10 full-time employees working at the facility each day. Condition A-3 limits the additional floor space to warehouse, therefore, not creating a more intensive use than currently exists on the property.

Applicable Fees:

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Waste Management: The site is provided with adequate facilities in accordance with applicable regulations.

Environmental Analysis: This project is categorically exempt from CEQA per section 15301, Existing Facilities. This Section allows for additions to existing facilities where the addition is less than 2,500 square feet.

Response from Agencies and Organizations: No negative responses regarding this application have been received to date.

Enclosures:

Exhibit "A" (Site Plan, Floor Plan)
Exhibit "B" (Findings and Conditions of Approval)

Exhibits:

Exhibit "A" (Site Plan, Floor Plan)
Exhibit "B" (Findings and Conditions of Approval)

Recommended Action:

1. Hold public hearing.
2. Find the project is exempt from CEQA per Section 15301, Existing Facilities.

3. Find PLN2003-00118, Findings for FAR Increase, is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designation, goals and polices set forth in the General Plan Land Use Chapter.
4. Find PLN2003-00118, as shown on Exhibit "A" (Site Plan, Floor Plan) fulfills the applicable requirements set forth in the Fremont Municipal Code.
5. Approve PLN2003-00118 for a 1,182 square foot mezzanine, as shown on Exhibit "A", with a consequent FAR of 0.38, based on the findings and conditions on Exhibit "B".

EXHIBIT "B"
Bayside Mezzanine – PLN2003-00118 (Finding for FAR Increase)
3220 Darby Common

The Findings below are made on the basis of information contained in the staff report to the Planning Commission dated January 9, 2003, incorporated herein:

1. An increase in the FAR will not be detrimental to the area streets, sewer lines and/or other public services or to the lighting, air quality or privacy of an other properties in the vicinity of the structure because adequate public facilities currently serve the site. An increase in these services is not necessary to accommodate the proposed increase in FAR.
2. There will be a provision in place guaranteeing the increased FAR will not be used to create a more intensive use than the uses specified by the approved findings. The increase in floor area will not result in any additional employees or increased traffic to the site and shall only be used for warehouse purposes. A condition of approval has been included to ensure a more intensive use will not be created.
3. The proposed increase in FAR will allow the expansion of the facility which will mitigate its impacts on the surrounding properties in the area more effectively than the FAR specified under the districts regulations. The expansion will allow the materials currently stored outside in the rear of the site to be now moved and stored within the facility.

CONDITIONS OF APPROVAL

Conditions to be complied with Prior to the Issuance of Building Permits:

- A-1. The project shall conform to Exhibit "A" (Site Plan, Floor Plan), and all conditions of approval herein.
- A-2. The project architect/engineer shall submit a letter to the City certifying that the plans for the mezzanine comply with the California Building Code Section 507.
- A-3. The applicant shall provide a written guarantee in the form of a deed restriction for recordation by the County Recorder, subject to review and approval by the City Attorney stating:

The increased FAR on the subject property shall not be used to create a more intensive use than the use specified by the approved Finding. The document shall address the restrictions on future potential development of the subject property. The recorder guarantee shall contain requirements for a review by the City of Fremont Assistant City Manager for all future site improvements. At such time as evidence is presented to the Assistant City Manager that there is an increase or intensification of use, the Assistant City Manager may impose corrective measures or other remedies to reduce the use and bring about compliance pursuant to the Fremont Municipal Code.

- A-4. Plans shall be submitted to the **Development Organization** for review to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- A-5. The project shall be subject to Citywide Development Impact Fees. The fees shall be calculated at the rate at the time of building permit issuance. The fees will be collected at the time of building permit issuance.

- A-6. Trash and recyclable enclosure areas shall be maintained free of litter and any other public undesirable materials. Recyclable materials shall not be allowed to accumulate such that a visual or public health and safety nuisance is created.
- A-7. This facility shall comply with all requirements of the Fire Department prior to occupancy with regard to fire safety, including the installation of an automatic fire extinguishing system (AFES), a smoke detection system with 24 hour monitoring, and special panic hardware for doors.

Conditions to be Complied with During Construction

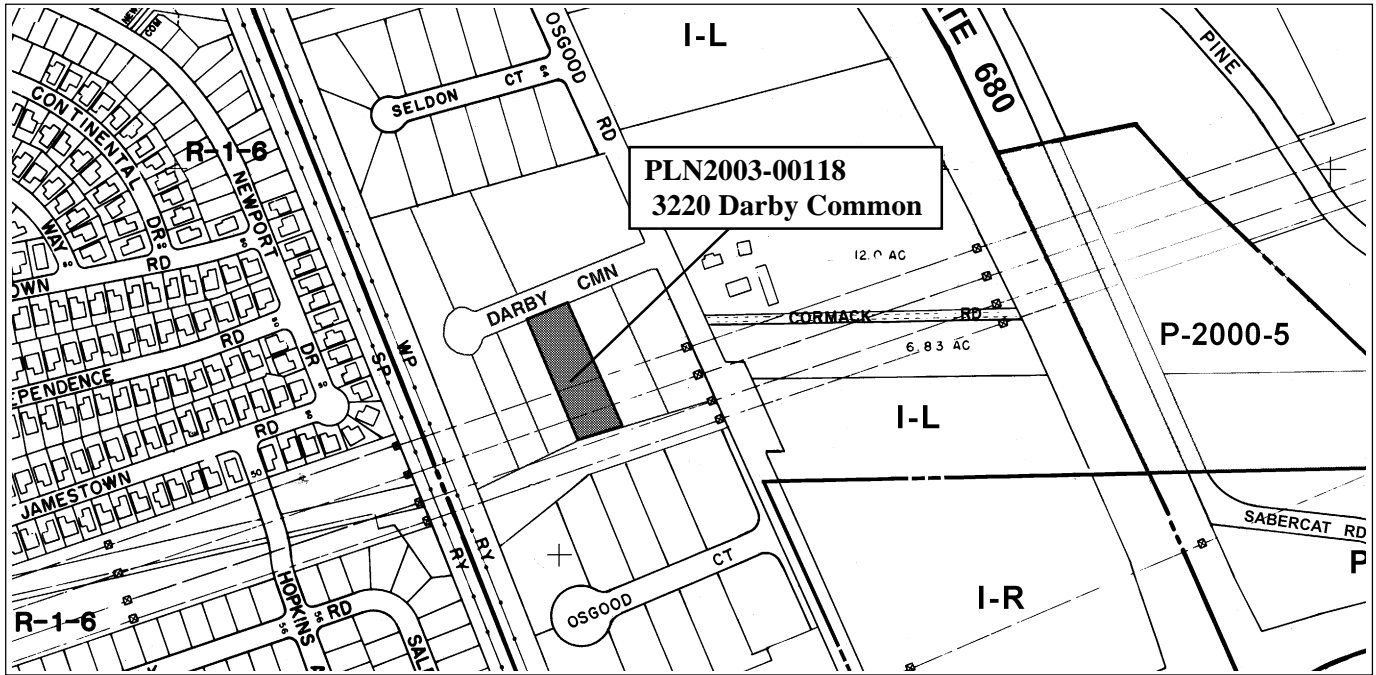
B-1. Construction activities shall be limited to the following hours of operation:

- 7:00 a.m. to 7:00 p.m. Monday through Friday
- 9:00 a.m. to 6:00 p.m. Saturday and Sunday

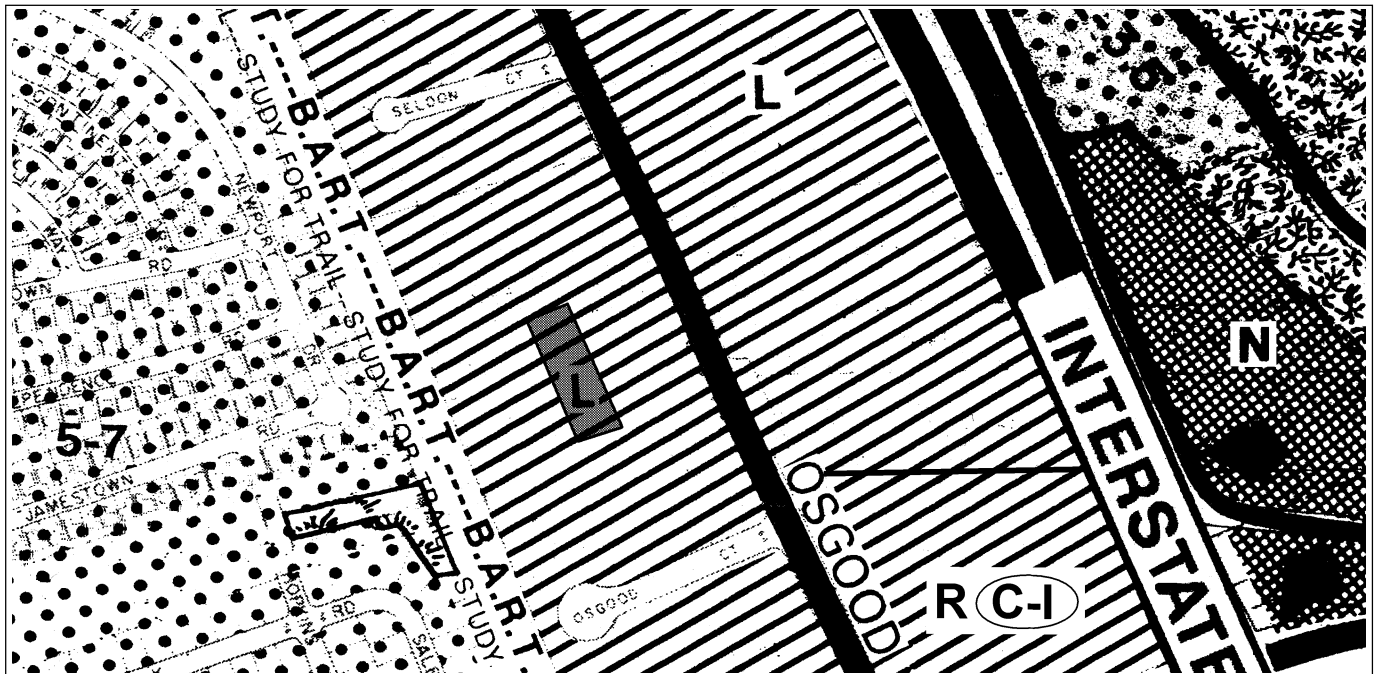
Operational Maintenance

- D-1. If the Assistant City manager finds evidence that conditions of approval have not been fulfilled or that the FAR increase has resulted in a substantial adverse effect on the health, and/or welfare of users of adjacent or approximate property, or have a substantial adverse impact on public facilities or services, the Assistant City Manager may refer the FAR increase to Planning Commission for review. If, upon such a review, the Commission finds that any of the results above have occurred, the Commission may modify or revoke the FAR increase.
- D-2. The property owner is responsible for contracting with recycle brokers for regular pick-up of recyclable materials. Recyclable materials should not be allowed to accumulate such that visual or public health or safety nuisance is created.
- D-3. The property owner shall be responsible for litter control and sweeping of all on-site paved surfaces. All on-site storm drains are to be cleaned immediately before the commencement of the rainy season (October 15).
- D-4. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.

INFORMATIONAL



Existing Zoning



Existing General Plan

Project Number: PLN2003-00118 (F)
Project Name: Bayside Mezzanine
Project Description: To consider a Finding to increase the Floor Area Ratio from 34.4% to 38.1% to allow the construction of a 1,128sq.ft. mezzanine.

Note: Prior arrangements for access are not required for this site.

